

THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TYLER DIVISION

* * * * *

UNITED STATES OF AMERICA	*	6:18-CR-63-JDK-JDL-3
	*	Tyler, Texas
vs.	*	
	*	10:13 a.m. - 10:39 a.m.
SURI SURAI RIVERA-ZUNIGA	*	April 2, 2019

* * * * *

CHANGE OF PLEA HEARING

BEFORE THE HONORABLE JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE

* * * * *

Proceedings recorded by electronic sound recording
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1 **APPEARANCES:**

2 For the Plaintiff:

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Tyler, TX 75702

6 For the Defendant:

7 MR. TAB E. LAWHORN
8 **Findlay Craft, P.C.**
9 102 N. College Avenue
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10 Court Interpreter:

11 L. GARCIA

12 Courtroom Deputy:

13 SHARON BAUM

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1 P R O C E E D I N G S

2 10:13 A.M. - APRIL 2, 2019

3 THE COURT: Ms. Baum, you may call the case.

4 DEPUTY CLERK: The Court calls Case
5 6:18-CR-63, *United States of America vs. Suri Surai*
6 *Rivera-Zuniga*.

7 THE COURT: Announcements.

8 MR. WELLS: Bob Wells for the Government, Your
9 Honor. We are ready to proceed.

10 MR. LAWHORN: Tab Lawhorn for the Defendant
11 Zuniga. We are ready to proceed, Your Honor.

12 THE COURT: All right. And Mr. Lawhorn, I
13 understand your client intends to enter a plea of
14 guilty today to Count One of the Superseding Indictment
15 pursuant to a Written Plea Agreement?

16 MR. LAWHORN: Indeed, Your Honor. And we
17 have an interpreter available, as the Court is aware.
18 Just as a preliminary matter, my client does understand
19 English quite well. Occasionally, there is maybe a
20 word or a phrase that she doesn't understand. We're
21 requesting the Court consider to allow us just to go
22 through the hearing with English, but with an
23 interpreter that for the record is available for
24 interpretation if she should need it.

25 THE COURT: All right. Yes, we do have

1 Mr. Garcia, who is the Eastern District Staff
2 Interpreter, on the phone and Ms. Zuniga is listening
3 to that.

4 So, Ms. Zuniga, I just want you to know
5 that that's fine, we'll conduct things in English. But
6 if you feel that you need to talk to Mr. Garcia, if he
7 needs to explain something further, or you need to ask
8 him a question, you are free to do that, okay?

9 DEFENDANT RIVERA-ZUNIGA: Thank you, Your
10 Honor.

11 THE COURT: Also, if you'd like to talk to
12 Mr. Lawhorn as we go through this proceeding privately,
13 you can also do that, okay?

14 All right. Well, Ms. Zuniga, let me first
15 ask you -- or let me place you under oath so I can ask
16 you some questions. So, if you'd please raise your
17 right hand, Ms. Baum is going to swear you in.

18 DEPUTY CLERK: You do solemnly swear that the
19 testimony you will give in this case now in hearing
20 will be the truth, the whole truth, and nothing but the
21 truth, so help you God?

22 DEFENDANT RIVERA-ZUNIGA: The whole truth,
23 yes, Your Honor.

24 THE COURT: Basically, you swear that you're
25 going to tell the truth?

1 DEFENDANT RIVERA-ZUNIGA: I swear to tell the
2 truth.

3 THE COURT: Okay. All right. Well,
4 Ms. Zuniga, now that you're placed under oath, let me
5 ask you this: Do you understand that if you answer any
6 questions I ask of you today falsely, those answers
7 could later be used against you in a prosecution for
8 perjury or making a false statement?

9 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

10 THE COURT: All right, now, has Mr. Lawhorn
11 explained to you that you have the right to have your
12 plea of guilty taken by a United States District Judge?

13 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

14 THE COURT: Is it your desire to waive your
15 right to proceed before a District Judge and have your
16 plea taken by me, a United States Magistrate Judge?

17 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

18 THE COURT: Now, do you understand that your
19 plea is subject to approval and final acceptance by a
20 District Judge and sentencing will be conducted by a
21 District Judge?

22 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

23 THE COURT: All right, I have a form, then,
24 that I want you to look at with your attorney, and this
25 form is just indicating to me in writing your agreement

1 to have me take your plea. So, as I say, look that
2 over, and if you need Mr. Garcia to translate that for
3 you over the phone, that can occur. So, if you'd like
4 to consent, you can sign that.

5 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

6 **[Pause]**

7 MR. WELLS: Your Honor, let the record reflect
8 that the consent received has been duly executed by the
9 defendant and her counsel and is being tendered to the
10 Government for their inspection and execution. This
11 document was just translated from English to Spanish
12 verbatim by the translator today.

13 MR. LAWHORN: We signed it and approved it,
14 Your Honor.

15 THE COURT: Fine, thank you. The Consent Form
16 will be filed with the Court.

17 Now, Ms. Zuniga, I'm now going to ask you
18 a few questions to give me a little bit of background
19 information. So if you could tell me your full name.

20 DEFENDANT RIVERA-ZUNIGA: Suri Surai
21 Rivera-Zuniga.

22 THE COURT: And how old are you?

23 DEFENDANT RIVERA-ZUNIGA: I'm 24.

24 THE COURT: And how far did you go in school?

25 DEFENDANT RIVERA-ZUNIGA: To ninth grade.

1 THE COURT: Okay. You can read and write,
2 though; right?

3 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

4 THE COURT: Ms. Zuniga, have you ever been
5 treated for any mental illness?

6 DEFENDANT RIVERA-ZUNIGA: No, Your Honor.

7 THE COURT: Are you currently under the
8 influence of any medication?

9 DEFENDANT RIVERA-ZUNIGA: No, Your Honor.

10 THE COURT: All right, have you felt as though
11 you've understood what has happened in your case
12 leading up to today?

13 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

14 THE COURT: Do you also feel that you're
15 understanding what you're doing here today in court?

16 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

17 THE COURT: All right. Mr. Lawhorn, let me
18 turn to you now and ask if you believe the defendant
19 does possess the requisite mental and intellectual
20 capacity to understand the proceedings and to enter a
21 knowing and voluntary plea of guilty?

22 MR. LAWHORN: I do indeed, Your Honor, and she
23 does.

24 THE COURT: And Mr. Lawhorn, you just kind of
25 characterized Ms. Zuniga's English proficiency and, of

1 course, we've been noted how we're proceeding today.
2 But in your representation, would you characterize it,
3 as you did previously, that Ms. Zuniga has a high level
4 of English proficiency? How is that ultimately gone in
5 your mind?

6 MR. LAWHORN: Yes, Your Honor. Really, since
7 the initial appearance, at the initial appearance when
8 I was first appointed on the case, Your Honor, there
9 was an interpreter, as we have here today, that was
10 present for those proceedings. Ms. Zuniga and myself
11 were able to communicate quite effectively in English
12 through the visits that I had at the Upshur County
13 Jail, which were multiple visits. She asked
14 intelligent questions regarding her case that led me
15 to believe that she understood a lot of some of the
16 technical aspects of the discovery and also the law as
17 it pertained to the consequences of this particular
18 crime that she was involved in.

19 The only issues that we had were really
20 super technical terms that were really contained in the
21 plea documents. It really wasn't until we got to that
22 part of the process in which I needed assistance.
23 Ms. Zuniga understood the Plea Agreement as we went
24 over it together just in English. She led me to
25 believe that she was quite proficient in understanding

1 fully the intent of the Plea Agreement, the scope of
2 the Plea Agreement, and what she was pleading to.

3 However, in the factual resume', because
4 the factual resume' mimicked some of the information
5 contained in the discovery, the very specific factual
6 resume' I might add, we did want that translated,
7 particularly a translator available for her to answer
8 questions. We certified at the end of that factual
9 resume' that the document was translated from English
10 to Spanish verbatim, also with my comments through
11 whatever translated from English to Spanish.

12 So I feel quite confident that Ms. Zuniga
13 is able to competently proceed with the change of plea.
14 I believe that the documents that she reviewed, she had
15 a full understanding of them. The language barrier, in
16 my opinion, was quite minimal, again only through the
17 use of maybe the assistance of maybe a word or two,
18 which we were able to get through.

19 And the Court certainly can, to its own
20 pleasure, ask Ms. Zuniga about her -- if that's the way
21 she felt, but I believe that I've accurately summarized
22 her competency.

23 THE COURT: All right. So, Ms. Zuniga, let
24 me ask you, have you felt as though, in the English to
25 Spanish communication, that you felt as though you've

1 understood and been able to ask questions and get the
2 answers that you needed during the course of this case?

3 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

4 THE COURT: Okay. And are you satisfied with
5 Mr. Lawhorn's representation?

6 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

7 THE COURT: And you did receive a copy of the
8 Indictment; is that right?

9 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

10 THE COURT: Did you go over the Indictment and
11 the facts of your case with Mr. Lawhorn?

12 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

13 THE COURT: And after going over all that with
14 him, is it your desire now to plead guilty?

15 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

16 MR. LAWHORN: And just to clarify, Your Honor,
17 there was a Superseding Indictment. We went over both,
18 Your Honor.

19 THE COURT: All right. Well, as to that
20 Superseding Indictment, Ms. Zuniga, I can have the
21 Government read that to you at this point or you can
22 waive it if you feel as though you've had it read to
23 you and translated and you don't need it read.
24 Whatever you'd like to do.

25 DEFENDANT RIVERA-ZUNIGA: I would like to

1 waive it.

2 THE COURT: You want to waive it, okay.

3 Well, as I noted, Ms. Zuniga, at the
4 outset of the hearing, I understand you intend to plead
5 guilty today to Count One of the Superseding Indictment.
6 Now, this count charges you with a violation of Title
7 21, United States Code, Section 846, which is conspiracy
8 to possess with intent to distribute methamphetamine.
9 Now, do you understand that's what you're charged with
10 in Count One of the Superseding Indictment?

11 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

12 THE COURT: Now, the range of punishment for
13 that offense is imprisonment for a period not less
14 than 10 years or more than life, a fine not to exceed
15 \$10 million, a term of supervised release of at least
16 five years, which may be mandatory and will follow any
17 term of imprisonment, a mandatory Special Assessment of
18 \$100, forfeiture of property involved in or traceable
19 to the criminal offense, and costs of incarceration and
20 supervision.

21 Now, do you understand that's the range of
22 punishment for this offense?

23 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

24 THE COURT: All right, I'm going to turn at
25 this point to the Plea Agreement Addendum, which has

1 | been presented to me today under seal.

2 | And Mr. Lawhorn, have you reviewed the
3 | contents of the Addendum with your client?

4 | MR. LAWHORN: I have indeed, Your Honor.

5 | THE COURT: And Ms. Zuniga, do you have any
6 | questions or concerns about the contents of the Plea
7 | Agreement Addendum?

8 | DEFENDANT RIVERA-ZUNIGA: No, Your Honor.

9 | THE COURT: All right, then at this point I'm
10 | going to ask Mr. Wells if he'll summarize the Plea
11 | Agreement.

12 | MR. WELLS: Yes, Your Honor. According to
13 | the Plea Agreement, the defendant will plead guilty to
14 | Count One of the Superseding Indictment, which charges
15 | her with a violation of 21 United States Code, Section
16 | 846, which is conspiracy to possess with intent to
17 | distribute methamphetamine.

18 | Defendant faces a sentence of not less
19 | than 10 years to life, a fine not to exceed \$10
20 | million, or both, a term of supervised release of at
21 | least five years, and a \$100 Special Assessment.

22 | The parties in the Plea Agreement
23 | stipulate to the following:

24 | Because the offense involved at least 1.5
25 | kilograms, but less than 4.5 kilograms of

1 methamphetamine, the Base Offense Level pursuant to
2 United States Sentencing Guidelines Section 2D1.1(c)(2)
3 is Level 36.

4 Because an adjustment under Section
5 3B1.2(b) applies, the Base Offense Level is then
6 reduced by three levels to 33 pursuant to Section
7 2D1.1(a)(5)(ii).

8 The adjustment of United States Sentencing
9 Guidelines Section 3B1.2(b) applies, thereby providing
10 for a decrease of two levels.

11 A three-level reduction for acceptance of
12 responsibility applies under Section 3E1.1 subject to
13 the Probation Office and continued acceptance of
14 responsibility.

15 If the defendant meets the safety valve
16 criteria set out in Section 5C1.2, the offense level
17 will be further decreased by two levels pursuant to
18 2D1.1(b)(18).

19 Defendant understands the Sentencing
20 Guidelines are advisory and that the Court will
21 determine the sentence. And she also understands that
22 the Court is not bound by these stipulations in the
23 Plea Agreement.

24 Defendant agrees to forfeit \$24,000 in
25 the form of a money judgment. The United States agrees

1 to not prosecute defendant for any additional non-tax
2 related charges related to this plea. The other
3 remaining charges from the Superseding Indictment will
4 be dismissed at sentencing.

5 Defendant agrees that her plea is
6 voluntary and defendant knowingly and voluntarily
7 waives appeal, with the exceptions of punishment
8 imposed in excess of the statutory maximum or a claim
9 of ineffective assistance of counsel.

10 The Plea Agreement binds only the United
11 States Attorney's Office for the Eastern District of
12 Texas and no other potential prosecuting authority.

13 And there is, as the Court noted, a sealed
14 Plea Agreement Addendum.

15 THE COURT: Thank you.

16 Now, Ms. Zuniga, let me ask you about this
17 Plea Agreement. Now, first of all, are those the terms
18 of your Plea Agreement with the Government?

19 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

20 THE COURT: Is there anything in the agreement
21 that you feel like you do not understand?

22 DEFENDANT RIVERA-ZUNIGA: No, sir.

23 THE COURT: Has anyone made any other promise
24 to you other than what's in this Plea Agreement in
25 exchange for your plea?

1 DEFENDANT RIVERA-ZUNIGA: No, Your Honor.

2 THE COURT: Has anyone attempted to force you
3 to plead guilty?

4 DEFENDANT RIVERA-ZUNIGA: No, sir.

5 THE COURT: Are you pleading guilty because
6 you are in fact guilty?

7 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

8 THE COURT: Mr. Lawhorn, you mentioned this
9 earlier, but you have fully and completely discussed
10 each term of the Plea Agreement with the defendant?

11 MR. LAWHORN: I have indeed, Your Honor.

12 THE COURT: All right, Ms. Zuniga, I'm going
13 to turn to some questions that center primarily around
14 paragraph 5. And this paragraph deals with Guideline
15 stipulations.

16 And first of all, let me ask you, do you
17 realize that although the United States Sentencing
18 Guidelines, which are referred to here, they are
19 advisory to the Court, a Guideline sentence will be
20 calculated and those Guidelines may apply to your case?

21 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

22 THE COURT: And have you discussed the
23 application of those Guidelines with your lawyer?

24 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

25 THE COURT: Now, Ms. Zuniga, do you understand

1 that even though the Court -- even though you and the
2 Government have reached certain agreements regarding
3 sentencing, and I'm referring to those in paragraph 5,
4 the Court will not be able to determine your Guideline
5 sentence until after the Presentence Report has been
6 completed and then you and the Government have had an
7 opportunity to challenge the facts and the calculations
8 reported by the probation officer?

9 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

10 THE COURT: And what I mean by that is really
11 set forth here in paragraph 5 after the stipulations.
12 There's a sentence there that says that parties
13 understand the Court is not bound by the stipulations.
14 And you understand that?

15 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

16 THE COURT: And you also understand that as
17 the paragraph goes on to state, that it's possible
18 there could be other characteristics or adjustments
19 that increase or decrease the appropriate sentencing
20 range?

21 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

22 THE COURT: So, Ms. Zuniga, do you understand
23 that the sentence imposed by the Court, it could be
24 different from any estimate your attorney, the
25 Government, or the Probation Office may have given you?

1 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

2 THE COURT: And do you also understand that
3 even after it has been determined what Guideline
4 sentence applies, the Judge has the authority in some
5 circumstances to impose a sentence that is more severe
6 or less severe than what's called for by the Guidelines?

7 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

8 THE COURT: All right. Finally here,
9 Ms. Zuniga, do you understand that if the sentence is
10 more severe than you expect, you're still bound by your
11 plea of guilty?

12 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

13 THE COURT: All right. I'm going to move away
14 now from questions that revolve around sentencing and
15 I'm going to ask you some questions now that go to your
16 rights, but that you give up if you plead guilty.

17 Now, do you understand, Ms. Zuniga, that
18 you have the right to plead not guilty and to go to
19 trial on that plea?

20 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

21 THE COURT: Now, if you persist in your desire
22 to plead guilty, I want you to know you're waiving the
23 following rights:

24 You do have a right under the Constitution
25 and the laws of the United States to a full trial on

1 the merits before a jury. You would be presumed to be
2 innocent and the Government would have to affirmatively
3 prove all of the elements of the charged offense beyond
4 a reasonable doubt.

5 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

6 THE COURT: Now, at such a trial you would
7 enjoy the right to be assisted by your attorney, the
8 right to testify on your behalf if you desired, the
9 right not to be compelled to testify if you did not
10 want to, the right to compulsory process to compel the
11 attendance of witnesses on your behalf, the right to
12 cross-examine Government witnesses, and the right to a
13 speedy and public trial.

14 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

15 THE COURT: Do you understand by pleading
16 guilty, you are waiving and losing these rights which
17 are guaranteed by the Constitution and laws of the
18 United States?

19 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

20 THE COURT: All right. I'm now going to turn
21 back to the Plea Agreement because I want to look at
22 the paragraph that deals with your appellate rights.
23 It's paragraph 11. It's titled Waiver of Right to
24 Appeal or Otherwise Challenge Sentence. And I want to
25 confirm with you that you realize here that you have,

1 in fact, waived your right to appeal your conviction,
2 sentence, fine, Order of Restitution, or Order of
3 Forfeiture in this case on all grounds?

4 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

5 THE COURT: And you've also agreed that you
6 will not contest those same things at any
7 post-conviction proceeding, including, but not limited
8 to, a proceeding under 28 U.S.C., Section 2255?

9 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

10 THE COURT: And finally here, do you realize
11 that you reserve the right to appeal only if there were
12 to be a punishment imposed in excess of the statutory
13 maximum, or a claim of ineffective assistance of
14 counsel, which you've also reserved the right to seek
15 collateral review of that issue?

16 DEFENDANT RIVERA-ZUNIGA: Yes, Your Honor.

17 THE COURT: All right, I'll now ask,
18 Mr. Wells, if you'll will read the elements of this
19 offense and establish a Factual Basis for the taking of
20 this plea.

21 MR. WELLS: Yes, Your Honor. The elements of
22 this offense, a violation of Title 21, United States
23 Code, Section 846, is -- the charge comprises
24 conspiracy to possess with intent to distribute and
25 distribution of 50 grams or more of actual

1 methamphetamine, a Schedule II controlled substance, in
2 violation of federal law.

3 The essential elements that must be proven
4 to establish a violation of this offense are:

5 First, that within the time frame alleged
6 in the Indictment, two or more persons directly or
7 indirectly reached an agreement to distribute and
8 posses with intent to distribute methamphetamine;

9 Second, that the defendant knew of the
10 unlawful purpose of the agreement;

11 Third, that the defendant joined in the
12 agreement willfully with the intent to further its
13 unlawful purpose;

14 The overall conspiracy involved 50 grams
15 or more of actual methamphetamine;

16 And finally, the defendant knew or
17 reasonably should have known that the scope of the
18 conspiracy involved 50 grams or more of methamphetamine.

19 If I may ask the defendant some questions
20 just to prove up the Factual Basis, Your Honor?

21 THE COURT: Yes, you may.

22 MR. WELLS: Okay. First off, Ms. Suri Surai
23 Rivera-Zuniga, are you the same person identified in
24 the Superseding Indictment?

25 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

1 MR. WELLS: And are you the same who has
2 signed the Plea Agreement that we've gone through with
3 the Court earlier today?

4 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

5 MR. WELLS: Okay. Have you read the
6 Government's Factual Basis or had it translated to you?

7 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

8 MR. WELLS: And have you signed the Factual
9 Basis?

10 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

11 MR. WELLS: And that signed Factual Basis was
12 filed with the Court earlier today?

13 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

14 MR. WELLS: Now, do you admit that beginning
15 in or about August 2018 that you agreed with at least
16 one other person to distribute methamphetamine in the
17 Eastern District of Texas?

18 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

19 MR. WELLS: And do you admit that you knew
20 when you made that agreement that it was an unlawful
21 purpose to do so?

22 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

23 MR. WELLS: But you joined that agreement --
24 do you also admit that you entered that agreement
25 willfully with the intent of carrying out the unlawful

1 purpose?

2 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

3 MR. WELLS: And do you admit that you knew the
4 scope of the conspiracy involved at least 50 grams or
5 more of methamphetamine?

6 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

7 MR. WELLS: And do you admit that the
8 Government could prove that the substance that you were
9 assisting to distribute through this conspiracy was, in
10 fact, methamphetamine?

11 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

12 MR. WELLS: You also agree that the value of
13 the methamphetamine for which you were responsible
14 was -- could be valued at least \$24,000?

15 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

16 MR. WELLS: The Government will tender the
17 Factual Basis as well as defendant's testimony into the
18 record, Your Honor.

19 MR. LAWHORN: No objection.

20 THE COURT: All right, thank you. The Factual
21 Basis will be admitted.

22 All right, Ms. Zuniga, let me ask first
23 of all, with regard to the elements that were read that
24 comprise this offense, about those elements, do you
25 feel as though you understand each of the elements?

1 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

2 THE COURT: Do you also understand that these
3 are the matters the Government is required to prove
4 beyond a reasonable doubt in order to convict you of
5 this offense?

6 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

7 THE COURT: All right, I'm going to turn then
8 to this Factual Basis, which has been presented to me
9 today. I have reviewed and considered it and I've also
10 considered your answers to Mr. Wells' questions.

11 Now, Ms. Zuniga, first of all, about this
12 Factual Basis that I'm looking at here today, is
13 everything in it true and correct?

14 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

15 THE COURT: And did you go over it with
16 Mr. Lawhorn?

17 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

18 THE COURT: And did you get it translated, as
19 Mr. Lawhorn discussed earlier, into Spanish, making sure
20 you understood everything that was in there?

21 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

22 THE COURT: And then did you sign it
23 indicating that this Factual Basis is true and correct?

24 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

25 THE COURT: All right, now, my next question

1 to you is, do you understand that by admitting that
2 you engaged in this conduct that's contained in this
3 Factual Basis, also in your answers to Mr. Wells, you
4 are admitting the charge against you in Count One of
5 the Superseding Indictment and waiving any defenses you
6 might have to that charge?

7 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

8 THE COURT: Do you also understand by
9 admitting that you engaged in this conduct, this
10 conduct is going to be evaluated in calculating your
11 appropriate sentence?

12 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

13 THE COURT: All right. Well, Ms. Zuniga, do
14 you feel that you've understood everything that's gone
15 on here today?

16 DEFENDANT RIVERA-ZUNIGA: Yes, sir.

17 THE COURT: All right, before I ask how you
18 plead, do you have any questions or need to talk to
19 Mr. Lawhorn about anything?

20 DEFENDANT RIVERA-ZUNIGA: No, Your Honor.

21 THE COURT: All right. Ms. Zuniga, I'll ask
22 you, then, how do you plead to Count One of the
23 Superseding Indictment?

24 DEFENDANT RIVERA-ZUNIGA: Guilty, Your Honor.

25 THE COURT: The Court finds the defendant is

1 competent and capable of entering an informed plea. I
2 further find that the defendant's plea of guilty is
3 knowingly and voluntarily made and supported by an
4 independent basis of fact containing each of the
5 essential elements of this offense.

6 Therefore, I will recommend that your
7 plea be accepted and that you be judged guilty of this
8 offense. A Finding of Fact and Recommendation will be
9 sent to the District Judge recommending that he accept
10 my findings and your plea of guilty.

11 A Written Presentence Report will be
12 prepared by the Probation Office to assist the Judge in
13 sentencing. You will be asked to give information for
14 the report and your attorney may be present, if you
15 wish. The Court will permit you and your counsel to
16 read the Presentence Report before the Sentencing
17 Hearing and to make objections, if you deem necessary.
18 You and your attorney will be afforded the opportunity
19 to address the Court at the Sentencing Hearing.

20 All right, at this point let me ask
21 counsel, would you be willing to waive the objection
22 period to my recommendation?

23 Any objection to a waiver from the
24 Government?

25 MR. WELLS: No, Your Honor.

1 THE COURT: And the defendant?

2 MR. LAWHORN: No objections from the defense,
3 Your Honor.

4 THE COURT: All right, then thank you. I will
5 send my recommendations straight-away to the District
6 Judge for adoption.

7 Anything further at this time from the
8 Government?

9 MR. WELLS: No, Your Honor. Thank you.

10 THE COURT: Anything further from the
11 defendant?

12 MR. LAWHORN: Nothing from the defense at this
13 time, Your Honor.

14 THE COURT: All right, thank you. The
15 defendant is remanded at this time to the custody of
16 the United States Marshals and we'll be adjourned.

17 ***[10:39 a.m. - Proceedings adjourned]***

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C E R T I F I C A T I O N

I certify that the foregoing is a correct transcript of the electronic sound recording of the proceedings in the above-entitled matter.

/s/ Gwen Reed

2-26-20